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CITY OF DESERT HOT SPRINGS, and TUAN-ANH VU

**UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA**

JOSEPH MINER, an individual,

Plaintiff,

v.

CITY OF DESERT HOT SPRINGS,
CALIFORNIA, a municipal
corporation; TUAN ANH VU, an
individual, in his investigative and
administrative capacity; PRESIDING
JUDGE RIVERSIDE COUNTY
SUPERIOR COURT, Judith Clark in
her official, executive and
administrative capacity; CHIEF
EXECUTIVE OFFICER
RIVERSIDE COUNTY SUPERIOR
COURT, Jason Galkin, in his
official, executive and administrative
capacity; DOE DEFENDANTS 1-20,

Defendants.

Case No. 8:24-cv-02793-CAS-E
Related Case No: 8:22-cv-01043-CAS
MAA

**DEFENDANTS, CITY OF DESERT
HOT SPRINGS' AND TUAN-ANH
VU'S RESPONSE AND
OBJECTIONS TO PLAINTIFF'S
OBJECTIONS TO MAGISTRATE
JUDGE'S RECOMMENDATIONS**

Date: Vacated
Time: Vacated
Courtroom: 8D
Complaint Filed: December 23, 2024

Hon. Charles F. Eick, United States
Magistrate
Judge

Hon. Christina A. Synder, United States
District Judge

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
2 **RECORD HEREIN:**

3 **PLEASE TAKE NOTICE** that Defendants, CITY OF DESERT HOT
4 SPRINGS and TUAN-ANH VU (“Responding Parties”) hereby file their RESPONSE
5 AND OBJECTIONS TO PLAINTIFF’S OBJECTIONS TO MAGISTRATE
6 JUDGE’S RECOMMENDATIONS, pursuant to USCS Federal Rules of Civil
7 Procedure Rule 72(b)(2) as follows:

8 **Responding Parties’ RESPONSE AND OBJECTION NO. 1 - Untimely:**

9 PLAINTIFF’S OBJECTIONS TO MAGISTRATE JUDGE’S
10 RECOMMENDATIONS (“Plaintiff’s Objections”) filed and served on June 9, 2025,
11 are untimely pursuant to USCS Federal Rules of Civil Procedure Rule 72(b)(2). This
12 statute provides that “(w)ithin 14 days of being served with a copy of the recommended
13 disposition, a party may serve and file specific written objections to the proposed
14 findings and recommendations.”

15 Hon. Charles F. Eick, United States Magistrate Judge’s Report and
16 Recommendation of United States Magistrate Judge in the above-entitled matter was
17 filed, noticed and served on the parties via the Court’s electronic filing system on May
18 20, 2025. (See Case Documents 34, 34–1, and 35.) Plaintiff therefore had until June
19 3, 2025, to object to the Report and Recommendation pursuant to USCS Federal Rules
20 of Civil Procedure Rule 72(b)(2). Plaintiff’s Objections were filed late on June 9, 2025.
21 (See Case Documents 36 and 36-1.)

22 Pursuant to USCS Federal Rules of Civil Procedure Rule 72(b)(3), “(t)he district
23 judge must determine de novo any part of the magistrate judge’s disposition that has
24 been properly objected to.” Plaintiff’s Objections are untimely. Plaintiff therefore has
25 not “properly objected” to the Report and Recommendation of the United States
26 Magistrate Judge. The District Judge therefore need not make a determination
27 regarding the magistrate judge’s disposition to resolve Plaintiff’s Objections.

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Based upon the foregoing, Responding Parties request that the Court sustain Responding Parties' Response and Objection No. 1, and overrule and disregard Plaintiff's Objections.

Ruling on Responding Parties' Response and Objection No. 1:

Sustained: _____

Overruled: _____

Responding Parties' RESPONSE AND OBJECTION NO. 2 – Not Specific:

USCS Federal Rules of Civil Procedure Rule 72(b)(2) provides that "(w)ithin 14 days of being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations."

Plaintiff's Objections (Case Documents 36 and 36-1) consist of 35 pages of Points and Authorities and 46 pages of Exhibits. These materials upon review are not "specific written objections to the proposed findings and recommendations."

Pursuant to USCS Federal Rules of Civil Procedure Rule 72(b)(3), "(t)he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." Plaintiff's Objections are not specific written objections. Plaintiff therefore again has not properly objected to the Report and Recommendation of United States Magistrate Judge on this separate basis. On this ground the District Judge again need not make a determination regarding any part of the magistrate judge's disposition to resolve Plaintiff's Objections.

Based upon the foregoing, Responding Parties request that the Court sustain Responding Parties' Response and Objection No. 2, and overrule and disregard Plaintiff's Objections.

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Ruling on Responding Party's Response and Objection No. 2:

Sustained: _____

Overruled: _____

Responding Parties' RESPONSE AND OBJECTION NO. 3 – Reconsideration

Motion:

It bears repeating that USCS Federal Rules of Civil Procedure Rule 72(b)(2) provides that “(w)ithin 14 days of being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.” Plaintiff's Objections consist of 35 pages of Points and Authorities and 46 pages of Exhibits.

If not actual “specific written objections to the proposed findings and recommendations” of the Magistrate Judge, what is the true nature of Plaintiff's filing? Plaintiff's Objections begin with the following statement: “A new Ninth Circuit clarification Opinion on Rooker Feldman was affirmed.” (See Case Document 36. Page 8, Line 2.) Plaintiff's Objections then proceed to provide additional Points and Authorities and to re-argue the underlying Motions to Dismiss of the named Defendants. Plaintiff's Objections are not specific written objections. Plaintiff's filing is actually an improperly and insufficiently filed and noticed motion for reconsideration.

Based upon the foregoing, Responding Parties request that the Court sustain Responding Parties' Response and Objection No. 3, and overrule and disregard Plaintiff's Objections on this additional ground.

Ruling on Responding Party's Response and Objection No. 3:

Sustained: _____

Overruled: _____

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Responding Parties' RESPONSE AND OBJECTION NO. 4 – No Designation of Record:

USCS Federal Rules of Civil Procedure Rule 72(b)(2) states that “(u)nless the district judge orders otherwise, the objecting party must promptly arrange for transcribing the record, or whatever portions of it the parties agree to or the magistrate judge considers sufficient.”

Here these steps have not been taken. “The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” [USCS Federal Rules of Civil Procedure Rule 72(b)(3).] Plaintiff has not designated the record and the District Judge has not ordered otherwise. Plaintiff therefore again has not properly objected to the Report and Recommendation of United States Magistrate Judge due to the failure to designate the record as required. On this basis the District Judge again need not make a determination regarding any part of the magistrate judge’s disposition to resolve Plaintiff’s Objections.

Based upon the foregoing, Responding Parties request that the Court sustain Responding Parties’ Response and Objection No. 4, and overrule and disregard Plaintiff’s Objections.

Ruling on Responding Party’s Response and Objection No. 4:

Sustained: _____

Overruled: _____

Respectfully submitted,

DATED: June 20, 2025

GRAVES & KING LLP
Attorneys at Law

BY: _____
BRENDAN J. COUGHLIN
Attorneys for the Defendants, CITY
OF DESERT HOT SPRINGS, and
TUAN-ANH VU

10616 - Ida Kirby v. City of Cerritos...04-04-2020/MSJ/MEMO OF COSTS & FEES/Mtn to Tax/CITY - Objection to Reply.docx

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2025, I electronically filed the foregoing
**DEFENDANTS, CITY OF DESERT HOT SPRINGS' AND TUAN-ANH
VU'S RESPONSE AND OBJECTIONS TO PLAINTIFF'S OBJECTIONS
TO MAGISTRATE JUDGE'S RECOMMENDATIONS**, with the Clerk of
the Court using the CM/ECF system which will send notification of such filing to
the ECF registrants at the email addresses indicated on the attached below:

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Attorneys for Defendants,
HON JUDITH C. CLARK, Judge of
the Superior Court of California,
County of Riverside and JASON
GALKIN, Court Executive Officer of
the Superior Court of California,
County of Riverside

I certify under penalty of perjury under the laws of the United States of
America that the foregoing is true and correct.

Executed on June 20, 2025, at Riverside, California.

/s/

Caroline M. Lyons
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